

APPENDIX B: RESPONSES TO NOTICE OF PREPARATION

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Contra Costa

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United States Department of the Interior

BUREAU OF RECLAMA110N

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1243 N Street

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ADVANCE COpy FAXED ON MAY 4, 2006

Mr. Tom Hall

California Department of Water Resources Delta Suisun Marsh Office

P.O. Box 942863

Sacramento, CA 94236-0001

5594875397

P.02/03



Subject: Notice of Preparation of Draft Environmental Impact Report (EIR) for the Dutch Slough Restoration Project

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Dear Mr. Hall:

The Bureau of Reclamation has reviewed the above-referenced document. Based upon our review, we would like to express our desire that the planning and development of the Dutch Slough Restoration Project (restoration project) be carried out in close coordination with the adjacent Contra Costa Canal Replacement Project (replacement project, formerly known as the Contra Costa Canal Encasement Project). The proposed restoration project has the potential to impact water quality in the Contra Costa Canal (CCC). The CCC, which is a Central Valley Project facility owned by Reclamation and operated by the Contra Costa Water District (CCWD), serves as a source of drinking water for over 500,000 residents in Contra Costa County.

For the restoration project to achieve its goal of restoring tidal influence to the Dutch Slough property, the replacement project must be completed to prevent any degradation to CCWD's water supply,

Reclamation appreciates the opportunity to comment on this Notice of Preparation and we look forward to working with you on the development of your project. If you have any questions, please contact Ms. Shauna McDonald, Wildlife Biologist, at 559-487-5202, or at 559-487-5933 for the hearing: impaired.

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Received

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Sincerely,
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,./'



Kathy Wood,
Chief, Resource Management Division

Frcm-5594S75397

To-

PaiS 002



CALIFORNIA URBAN WATER AGENCIES

April 25, 2006

Tom Hall
Department of Water Resources
Delta Suisun Marsh Office
P.O. Box 942863
Sacramento, CA 94236-0001

Dear Mr. Hall:

This is in response to the March 24, 2006 Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the proposed Dutch Slough Restoration Project. California Urban Water Agencies (CUWA) is an eleven member association of urban water agencies which provide drinking water to two-thirds of Californians. CUWA's mission is to provide a forum for combining the expertise and resources of its member agencies to study and promote the need for a reliable, high quality water supply for the state's current and future urban water needs.

Consistent with CUWA's mission and the interests of our member agencies, we have long been supportive of ecosystem restoration efforts aimed at reducing water and ecosystem conflicts in the Delta. Our members were instrumental in providing early funding for the CALFED ecosystem restoration program. We are also strong supporters of the CALFED target of continuously improving water quality for all uses (CALFED Record of Decision, page 65). Prior to DWR's acquisition of the Dutch Slough property a few years ago, there were many discussions of the potential conflicts between tidal marsh ecosystem restoration and water quality improvement. We are pleased that the NOP (page 14) recognizes this potential, and states that the EIR will review and evaluate potential water quality impacts.

It is essential that the alternatives considered in the draft EIR fully consider and evaluate potential adverse impacts to water quality, particularly for those constituents that are of increasing concern to drinking water utilities (organic carbon, bromide, chloride, total dissolved solids, nutrients, and pathogens). More important than evaluating potential water quality impacts, CUWA believes it is crucial to develop alternatives that meet ecosystem goals while at the same time avoiding adverse water quality impacts. CUWA expects to participate in the review of the draft EIR, and would like to be added to your list of interested parties.

Sincerely,

Steve Macaulay
Executive Director

(Advanced copy sent via email to thall@water.ca.gov)



Contra Costa County
FLOOD CONTROL
& Water Conservation District

Maurice M. Shiu
ex officio Chief Engineer

255 Glacier Drive, Martinez, CA 94553-4825
Telephone: (925) 313-2000
FAX (925) 313-2333

May 4, 2006

Tom Hall
California Department of Water Resources
Delta Suisun Marsh Office
P.O. Box 942863
Sacramento, CA 94236-0001

Our File: 3074-06 APN 037-191-036
97-74 & 4001-00

Dear Mr. Hall:

We have reviewed the Notice of Preparation (NOP) for the Draft Environmental Impact Report (DEIR) for the Dutch Slough Restoration Project, located north of the Contra Costa Canal by Dutch Slough in the City of Oakley. We received the NOP on March 30, 2006, and reviewed it for its scope and general contents, reserving our more detailed comments for the upcoming DEIR.

The Contra Costa County Flood Control and Water Conservation District (District) is the fee title owner of Marsh Creek flood control channel through the project reach. Marsh Creek is the principal waterway and flood control facility for both the City of Oakley and the eastern portion of Contra Costa County as a whole. As such, the District's primary interest and task with regard to Marsh Creek is improving and maintaining it to provide flood protection for the citizens in East County. While we are open to the concept of the Dutch Slough Restoration Project, we will require that any aspects of the project that impact Marsh Creek be looked at carefully to ensure the creek's ability to provide an appropriate level of flood control over the long-term. This summary is the basis behind most of the District's comments on the NOP.

1. This project is located within Drainage Area 74, an unformed drainage area. Therefore, no drainage area fees will be applied to the limited impervious surfaces proposed by this project.
2. The District owns Marsh Creek in fee title. While Marsh Creek is mentioned prominently in the NOP, we could find no mention of the District's ownership of the creek. This should be clearly explained in the DEIR.
3. Any work proposed on District property will require a flood control encroachment permit. Issuance of flood control encroachment permits should be clearly mentioned in the DEIR. The DEIR should also address any proposed real property transactions with regard to Marsh Creek. The District is not interested in retaining "orphaned" portions of Marsh Creek right-of-way north of any proposed diversion locations to the restoration area.

4. The DEIR should analyze the hydraulic impacts of the proposed project on the Marsh Creek flood control channel upstream of the project. As a guideline, and at a minimum, we require that the project design and construct a drainage system to adequately collect and convey stormwater runoff, entering or originating within the project to the nearest natural watercourse or adequate man-made drainage facility, without diversion of the watershed. Page 9 of the NOP states that “the design of the Marsh Creek diversion and delta restoration will need to maintain or improve the existing level of flood protection provided by the Marsh Creek flood control channel.” It is unclear what is meant by “existing level.” Marsh Creek is designed to convey the 100-year storm based on ultimate development. FEMA 100-year storm run-off is typically based on existing conditions and would not be acceptable for Marsh Creek.
5. The restoration area should be designed to convey the 100-year design flow-rate through the various meandering channels and marshes. We recommend that the initial design of the restoration area have a lower target starting water surface for Marsh Creek (below the original design tailwater). The project design should analyze the accumulation of sediment and debris before maintenance would be necessary to prevent impacts to the flood control channel.
6. Due to siltation and other factors, the existing cross-section of Marsh Creek within the project varies in its ability to convey the 100-year design flow-rate. The analysis and design of the restoration project should not look only at the existing creek section, but should look also at the original “as-built” cross-section. The project should not preclude the reestablishment of the original channel capacity.
7. The hydraulic analysis of Marsh Creek is not addressed in the “Hydrology and Water Quality” section of the Issue Analysis (Environmental Consequences). Preservation of the ultimate flood control capacity of Marsh Creek should be adequately addressed.
8. The District is currently finalizing a Marsh Creek watershed hydraulic model (using the Corps of Engineers HEC-RAS computer program). The District would be willing to conduct some of the Marsh Creek analysis for this project under our fee for service program. As this is a model we have constructed and approved “in-house,” this may expedite the District’s review process.
9. As natural siltation is a welcomed part of the restoration project, a sedimentation and siltation study should be conducted as part of the DEIR process to determine what the long-term upstream invert elevation of the delta channels going through the wetland will be. This study should also investigate if this sedimentation will move up the Marsh Creek channel. The restoration area should be constructed low to allow for the build-up of sediment, while not impacting Marsh Creek. The project should consider the construction of a fixed point in the Marsh Creek channel invert (e.g., by using rock slope protection) at the boundary of the restoration area so that the higher upstream channel area can be stable and remain sediment-free, while the flows can then drop into the restoration area where the natural process of sedimentation is expected.
10. Marsh Creek was originally constructed by the National Resource Conservation Service (NRCS), formerly the Soil Conservation Service (SCS). It is unclear, at this time, if major modifications to Marsh Creek will need to be approved by the NRCS. If a right-of-way transfer of portions of Marsh Creek is being proposed, we are unsure of the process for releasing the facility to another agency.

11. The long-term maintenance and funding for the proposed facility and impacted portions of Marsh Creek should be addressed in the DEIR. A perpetual funding source should be identified. The District has no funds for increased maintenance to the Marsh Creek channel. Therefore, impacts to the Marsh Creek channel as a result of this project, which lead to increased maintenance, can not be funded by the District.
12. An agreement should be prepared between the District and maintenance entity responsible for the restoration area, which outlines the flow capacity and water surface elevation that needs to be maintained through the project to ensure the proper flood control function of the Marsh Creek channel. Provisions should be made for the maintaining agency to make periodic checks on accumulation of sediment and debris in the restoration area. Provisions should be made for reporting to and coordinating with the District on certain monitoring and maintenance activities.

We appreciate the opportunity to review this NOP and look forward to reviewing the DEIR when it becomes available. If you have any questions, or would like more information, please call me at (925) 313-2304 or Tim Jensen at (925) 313-2396.

Very truly yours,



Wes Cooley
Civil Engineer
Flood Control Engineering

WC:cw
G:\FldCtl\CurDev\CITIES\Oakley\Dutch Slough Restoration\NOP.doc

c: Jason Vogan, City of Oakley
G. Connaughton, Assistant Chief Engineer, Flood Control
B. Faraone, Flood Control
P. Detjens, Flood Control
T. Jensen, Flood Control
Sarah Beamish Puckett
National Heritage Institute
100 Pine Street, Suite 1550
San Francisco, CA 94111

**CONTRA COSTA
WATER DISTRICT**

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(925) 688-8000 FAX (925) 688-8122

May 5, 2006

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President

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Vice President

Bette Boatman
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General Manager

VIA FACSIMILE (916) 651-9678
Hard Copy to Follow

Mr. Tom Hall
Department of Water Resources
Delta Suisun Marsh Office
P.O. Box 942836
Sacramento, CA 94236-0001

Subject: Dutch Slough Restoration Project Notice of Preparation

Dear Mr. Hall:

The Contra Costa Water District (District) appreciates the opportunity to respond to the March 24, 2006 Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the proposed Dutch Slough Restoration Project. The District is responsible for maintaining and operating the Contra Costa Canal which borders the proposed project for approximately two miles. This water supply channel is owned by the U.S. Bureau of Reclamation as part of the Central Valley Project and conveys drinking water to the District's nearly 500,000 customers. The purpose of writing this letter is to make certain that the proposed project is adequately scoped to ensure that all potential impacts are addressed, particularly those that could impact the District's water quality.

The proposed restoration project has potential to be a significant asset to the local community, the ecosystem, and to the Delta in general. However, features of the design have potential to impact other beneficial uses of water such as drinking water quality and these potential impacts should be thoroughly explored. To that end, our comments on the scope of the pending environmental documentation fall into two distinguishable categories.

First, due to the potential impacts to the unlined portion of the Contra Costa Canal, analysis of potential impacts must include an alternative that assumes the Contra Costa Canal remains unaltered. In this case, the infiltration and ground water movement from the wetland area to the unlined Canal with Delta water will raise the already high ground water table and this will adversely impact the lower salinity water diverted from Rock Slough within the Contra Costa Canal. Without proper set backs, there is potential for storm surge and/or high winds to create overtopping of water in wetlands into the canal in the eastern reaches of the project. These conditions could also create additional hydrostatic pressure on the existing berms which could affect their stability and increase seepage of poor quality water into the Canal.

Mr. Tom Hall
Dutch Slough Restoration Project Notice of Preparation
May 5, 2006
Page 2

The District understands that the proposed project has assumed for the purpose of analyzing potential impacts, that the unlined Canal is replaced with a buried pipeline. Although, the District is aggressively pursuing the Contra Costa Canal Replacement Project, a capital project to replace the unlined Canal with a pipeline, a completion date for the project is uncertain until all permits, environmental documentation and funding are secured. The Dutch Slough tidal restoration project should not assume that full implementation of the restoration project could occur until the new pipeline is complete. Therefore, a new interim alternative must be designed to avoid impacts or it must mitigate impacts and ensure funds to replace the Canal with a pipeline as a requirement.

Existing land use adjacent to the Canal includes drainage management that artificially lowers the local groundwater table. The existing groundwater elevation is known to seep into the Canal at times due to the difference in elevation between the groundwater table and the Canal and the highly porous local soil. The groundwater is also known to have much greater salinity concentration than the Canal (Luhdorff & Scalmanini Consulting Engineers 2006).

Wetlands restoration of the Department's property will presumably increase the local groundwater elevation, providing a corresponding increase to the local subsurface groundwater gradient near the Canal. This potential change suggests that there could be a greater magnitude and persistence of groundwater influx into the Canal during wet periods as compared to what presently occurs (LSCE 2006). In light of these potential impacts to the drinking water quality of nearly 500,000 people, the Department should provide mitigation measures that avoid impacting the water quality of the Contra Costa Canal. One way to avoid such impacts is for the Department to provide funding to the District to replace the Contra Costa Canal with a pipeline. The District estimates that if the Canal is not in a pipe that a significant buffer zone is needed and would consist of hundreds of acres in order to ensure no impacts are detected in the Canal. Restoration alternatives that do not include this buffer must include analysis of potential impacts associated with the existing unlined Canal.

The District also notes that the Dutch Slough Tidal Restoration Project NOP sets forth a possible 100-acre restoration project around lower Marsh Creek. That project as illustrated in the NOP assumes that wetlands are constructed on United States Bureau of Reclamation property. As presently shown, this project is not possible as long as the Contra Costa Canal is unlined and even if the Canal is placed into a pipeline, consideration must be given to retaining upland features for the District to access/maintain the pipeline. Before any restoration effort is considered, agreement will be needed with Reclamation and the District.

Second, considering the timing and proximity of the District's and the Department's projects (and other regional projects), the EIR should include an alternative that recognizes the potential to enhance the restoration project by better integrating with Reclamation's adjacent property and the District's planned pipeline project. Such an

Mr. Tom Hall
Dutch Slough Restoration Project Notice of Preparation
May 5, 2006
Page 3

alternative would demonstrate the mutual and expanded benefits of integrating regional planning.

Many implementation synergies are possible. One example is to develop an agreement between the District, Reclamation, and the Department to ensure that upon completion of the District's project, final grading of Reclamation's property, placement of a maintenance road, placement and type of fences, placement of re-located power poles, public access points, pipeline alignment, and drainage/runoff locations, are designed to be compatible with the adjacent restoration project. An additional opportunity would be to ensure that the design of the District's project allows the restoration project to be further enhanced by including an appropriate conservation easement within Reclamation's property, and/or providing an easement for a potential recreational trail (a recreational/public access trail would be a separate project with a separate environmental document, funding, and operation/maintenance agreement).

As a final comment the District also wants to underscore the comments from the California Urban Water Agencies (CUWA) who believe it is crucial to develop alternatives that meet ecosystem goals while at the same time avoiding adverse water quality impacts, in addition to adequately assessing potential impacts for each alternative. The NOP appropriately acknowledges the broader and regional potential to affect water quality in the Delta through release of contaminants and sediment and through alteration of hydrodynamics which could affect salinity distribution in the Delta. The alternatives considered in the draft EIR should fully consider and evaluate potential adverse impacts to water quality, particularly for those constituents that are of increasing concern to drinking water utilities (organic carbon, bromide, chloride, total dissolved solids, nutrients, and pathogens).

The District looks forward to collaborating with your team in the future. If you have any comments please do not hesitate to call me at (925) 688-8073.

Sincerely,

David A. Briggs / M.A.S.

David A. Briggs
Project Manager
Contra Costa Canal Replacement Project

DAB/MS/rlr

cc: Kathy Wood, U.S. Bureau of Reclamation



DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

Sacramento Valley - Central Sierra Region

1701 Nimbus Road, Suite A

Rancho Cordova, CA 95670

916/358-2900



May 5, 2006

Mr. Tom Hall
The Department of Water Resources
Delta Suisun Marsh Office
P.O. Box 942863
Sacramento, CA 94236-0001

Dear Mr. Hall:

The Department of Fish and Game (DFG) has reviewed your request for comments regarding a Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Dutch Slough Restoration Project. The restoration plans for this site cover approximately 1200 acres and mainly consist of converting agricultural rangelands/wetlands into tidal marsh. The project is located in the City of Oakley, Contra Costa County.

The scope and content of the EIR, as outlined in the NOP, are sufficient to uncover and address potential impacts to most biological resources here. As noted, the wetland impacts could be substantial and will be addressed. The following comments are listed to enhance the scope of the biological resources section.

In general, shallow water (0.5'-1.5') throughout most of the tidal marsh would benefit more target aquatic and waterfowl species than would greater depths. When looking at potential impacts to sensitive species, please survey for California Tiger Salamanders and vernal pool species which have been noted upriver along the Marsh Creek drainage. Lastly, terrestrial burrows, platforms, nests, and perches should be preserved where possible.

The environmental document should consider and analyze whether implementation of the proposed project will result in reasonably foreseeable, potentially significant impacts subject to regulation by the DFG under Section 1600 et seq. of the Fish and Game Code. In general, such impacts result whenever a proposed project involves work undertaken in or near a river, stream, or lake that flows at least intermittently through a bed or channel, including

Mr. Isom
May 5, 2006
Page 2

ephemeral streams and water courses. Impacts triggering regulation by the DFG under these provisions of the Fish and Game Code typically result from activities that:

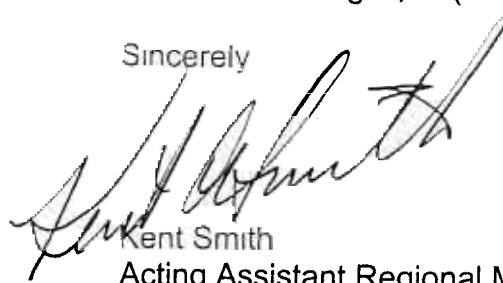
- Divert, obstruct, or change the natural flow or the bed, channel, or bank of a river, stream, or lake;
- Use material from a streambed; or

Result in the disposal or deposition of debris, waste, or other material where it may pass into a river, stream, or lake.

Pursuant to Public Resources Code Sections 21092 and 21092.2, the DFG requests written notification of proposed actions and pending decisions regarding this project. Written notifications should be directed to this office.

Thank you for the opportunity to review this project. We applaud such large-scale habitat restoration efforts! If the DFG can be of further assistance please contact Mr. Jason Holley, Associate Wildlife Biologist, at (916) 984-7123.

Sincerely

A handwritten signature in dark ink, appearing to read "Kent Smith", is written over the typed name.

Kent Smith
Acting Assistant Regional Manager

cc: Mr. Jason Holley
Mr. Dan Gifford
Department of Fish and Game
Sacramento Valley-Central Sierra Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

Ms. Janice Gan
Region 3
7329 Silverado Trail
Napa, CA 94587



DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEBSITE conservation.ca.gov

May 3, 2006

Mr. Tom Hall
Department of Water Resources
Delta Suisun Marsh Office
P.O. Box 942863
Sacramento, CA 94236-0001

Subject: Notice of Preparation of a Draft Environmental Impact Report for the Dutch Slough Restoration Project, Contra Costa County

Dear Mr. Hall:

The Department of Conservation's Division of Land Resource Protection's staff has reviewed the Notice of Preparation (NOP) for the above-referenced project. The Dutch Slough site is approximately 1,166 acres of prime farmland, and is located within the jurisdiction of Oakley. Until the acquisition occurred, about two-thirds of the property was used as pasture land, and the remaining land supported a dairy operation and forage crops. According to the NOP, there are three major goals of the proposed project:

1. Provide shoreline access, educational and recreational opportunities
2. Re-establish tidal marsh, ecological processes, and natural habitats
3. Use an adaptive management approach to ecosystem restoration

The NOP Project Description indicates that the proposed project involves establishment of the City of Oakley City Park, restoration of the Marsh Creek Delta on lands owned by the Iron House Sanitary District to the west of Marsh Creek, and wetland and upland restoration on the 1,166 acre property. Staff attended several meetings for the project. Project activities that will result in physical changes to the project site include a construction of a 55-acre park, the importing of fill material, excavation, construction of levees, permanent inundation of portion of the project site, a change in the marsh plain elevation, and dunes restoration. Not all activities are identified in the NOP, but were discussed in the public meeting held on April 5, 2006. Regardless of the intensity of ultimate land use, we consider the inundation of land and the project's various construction activities that affect soil productivity of 1,166 acres of prime farmland to be

a potentially significant impact. If the lead agency determines otherwise, we request that documentation and data that would rationally support a lesser determination be included as part of the DEIR.

The acquisition of the land, and subsequent feasibility studies were found to be categorically exempt under the California Environmental Quality Act (CEQA) section 15313, and 15262. It appears that the "whole of the project", which is the CEQA standard for review was not fully considered. If the lead agency feels that acquisition itself was the precursor or cause of agricultural land conversion, it would appear that the 2003 Categorical Exemption was faulty, and the impact of agricultural land conversion must be addressed at this time. We fully understand that the area was under development pressure and we can support the effort to retain and restore open and natural areas throughout the state.

We encourage the lead agency to consider the meaning of the term of Agricultural Resource, which is discussed but not specifically defined in Government Code Section 51201. Although the term is closely linked with the ability of the soil to be productive, it has been subjected to a narrow interpretation that considers only soil properties. We request that the lead agency acknowledge the importance and value of the agricultural resources in the region, and we also request that the impacts associated with the conversion of substantial acreage of prime agricultural lands to tidal or habitat areas and recreational uses with infrastructure (parking lot, lighting, restroom facilities, trails) be mitigated. We request that our concerns be addressed in the DEIR, and that the commitments in the May 2005 memo signed by the Secretaries of the Resources Agency and the Department of Food and Agriculture and the Record of Decision are complied with.

The following is a brief list of items to be addressed:

Completion of the Land Use Checklist prepared by CALFED agencies

- A determination of whether the proposed project involves the conversion of agricultural land. Although the land was acquired by a public agency in 2003, we ask that the number of acres of previous Williamson Act contracted lands, Prime Farmland, Unique Farmland and Farmland of Local and Statewide Importance be included.

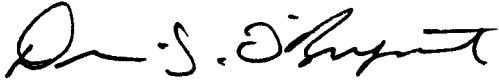
Identification of funding source(s) for mitigation to impacts to agricultural resources

A requirement that mitigation measures for any project funded within the CALFED solution area are consistent with the CALFED EIR/S Record of Decision.

Mr. Tom Hall
May 3, 2006
Page 3 of 3

Thank you for the opportunity to provide comment regarding this project. Please send us a copy of the DEIR when it becomes available. We would be pleased to meet with you and your staff to discuss these comments should the need arise. If you have any questions, please contact Jeannie Blakeslee at (916) 323-4943.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis J. O'Bryant". The signature is fluid and cursive, with the first name "Dennis" being the most prominent part.

Dennis J. O'Bryant
Acting Assistant Director

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5505
FAX (510) 286-5559
TTY (800) 735-2929



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April 10, 2006

CC004903
CC-4-R34.92
SCH2006042009

Mr. Tom Hall
Department of Water Resources
Delta Suisun Marsh Office
P.O. Box 942836
Sacramento, CA 94236-0001

Dear Mr. Hall:

Dutch Slough Restoration Project – Notice of Preparation

Thank you for including the California Department of Transportation (Department) in the early stages of the environmental review process for the Dutch Slough Restoration Project. We have reviewed the Notice of Preparation and have the following comments to offer:

Traffic Analysis

The Department is primarily concerned with potential project impacts to the State Highway System. Please ensure that the environmental analysis evaluates the proposed project's impacts by applying the following criteria to determine if a traffic analysis for State highway facilities is warranted:

1. The project will generate over 100 peak-hour trips assigned to a State highway facility.
2. The project will generate between 50 to 100 peak-hour trips assigned to a State highway facility, and the affected highway facilities are experiencing noticeable delay; approaching unstable traffic flow (level of service (LOS) "C" or "D") conditions.

3. The project will generate between 1 to 49 peak-hour trips assigned to a State highway facility, and the affected highway facilities are experiencing significant delay; unstable or forced traffic flow (LOS "E" or "F") conditions.

We recommend using the Department's *Guide for the Preparation of Traffic Impact Studies*, which is available at the following website address:

<http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf>

Encroachment Permit


Work that encroaches onto the State Right of Way requires an encroachment permit that is issued by the Department. Traffic-related mitigation measures will be incorporated into the construction plans during the encroachment permit process. See the following website link for more information: <http://www.dot.ca.gov/hq/traffops/developserv/permits/>

To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans (in metric units) which clearly indicate State Right of Way to:

Department of Transportation
Office of Permits
Attn: Sean Nozzari
111 Grand Avenue, 6th Floor
Oakland, CA 94612

Should you require further information or have any questions regarding this letter, please call Christian Bushong of my staff at (510) 286-5606.

Sincerely,



TIMOTHY J. SABLE
District Branch Chief
IGR/CEQA

c: State Clearinghouse

STATE OF CALIFORNIA-THESOURCES AGENCY

DELTA PROTECTION COMMISSION

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April 28, 2006

Scott Morgan

State Clearinghouse

P.O. Box 3044

Sacramento, CA 95812-3044

ARNOLD SCHWARZENEGGER. *Governor*



Subject

Dutch Slough Restoration Project Notice of Preparation of Draft Environmental Impact Report (SCH # 2006042009)

Dear Mr. Morgan,

The staff of the Delta Protection Commission (Commission) has reviewed the subject notice dated March 24, 2006. From the information provided, staff has determined that the proposed project is located within the Secondary Zone of the Legal Delta, adjacent to the Primary Zone. Actions for approval or denial of projects in the Secondary Zone are not subject to appeal to the Commission. However, the environmental analysis for the proposed project should address any potential impacts to the resources of the Primary Zone resulting from activities in the Secondary Zone.

The Delta Protection Act (Act) was enacted in 1992 in recognition of the increasing threats to the resources of the Primary Zone of the Delta from urban and suburban encroachment having the potential to impact agriculture, wildlife habitat, and recreation uses. Pursuant to the Act, a Land Use and Resource Management Plan for the Primary Zone (Management Plan) was completed and adopted by the Commission in 1995.

The Management Plan sets out findings, policies, and recommendations resulting from background studies in the areas of environment, utilities and infrastructure, land use, agriculture, water, recreation and access, levees, and marine patrol.

education! safety programs. As mandated by the Act, the policies of the Management Plan are incorporated in the General Plans of local entities having jurisdiction within the Primary Zone, including Contra Costa County. Both the Act and the Management Plan are available for your reference at the Commission's website, www.delta.ca.gov.

The policies and recommendations within the Management Plan that should be reviewed for consistency relative to the potential for the proposed restoration project to impact the Primary Zone include, but are not limited to, the following:

Environment:

Policy 3: Lands managed primarily for wildlife habitat shall be managed to provide several inter-related habitats.

Recommendation 2: Wildlife habitat on the islands should be of adequate size and configuration to provide significant wildlife habitat for birds, small mammals, and other Delta wildlife.

Recommendation 4: Feasible steps to protect and enhance aquatic habitat should be implemented as may be determined by resource agencies consistent with balancing other beneficial uses of Delta resources.

Recommendation 5: Publicly-owned land should incorporate, to the maximum extent feasible, suitable and appropriate wildlife protection, restoration and enhancement as part of a Delta-wide plan for habitat management.

Land Use:

Policy 3: New residential, recreational, commercial, or industrial development shall ensure that appropriate buffer areas are provided by those proposing new development to prevent conflicts between any proposed use and existing agricultural use. Buffers shall adequately protect integrity of land for existing and future agricultural uses. Buffers may include berms and vegetation, as well as setbacks of 500 to 1,000 feet. .

Recommendation 2: Public agencies and non-profit groups have or propose to purchase thousands of acres of agricultural lands to restore to wildlife habitat. The amount, type, and location of land identified to be enhanced for wildlife habitat should be studied by wildlife experts to determine goals for future acquisition and restoration. Lands acquired for wildlife habitat should also be evaluated for recreation, access, research and other needed uses in the Delta. Habitat restoration projects should not adversely impact surrounding agricultural practices. Public-private partnerships in management of public lands should be encouraged. Public agencies shall provide funds to replace lost tax base when land is removed from private ownership.

Water:

Policy 3: Water agencies at local, State, and federal levels shall work together to ensure that adequate Delta water quality standards are set and met and that beneficial uses of State waters are protected consistent with the CALFED Record of Decision dated August 8, 2000.

Recommendation 3: Programs to enhance the natural values of the State's aquatic habitats and water quality will benefit the Delta and should be supported.

Recommendation 8: Water quality at Delta drinking water intakes should be maintained or enhanced.

Recreation and Access:

Policy 3: Local governments shall develop siting criteria for recreation projects which will ensure minimal adverse impacts on agricultural land uses, levees, and public drinking water supply intakes, and identified sensitive wetland and habitat areas.

Policy 7: Local governments shall support improved access for bank fishing along State highways and county roads where safe and adequate parking can be provided and with acquisition of proper rights-of-access from the landowner. Adequate

policing, garbage cleanup, sanitation facilities, and fire suppression for such access shall be provided.

Policy 9: Local governments shall encourage new recreation facilities that take advantage of the Delta's unique characteristics.

Recommendation 3: New projects in the Secondary Zone, adjacent to the Primary Zone, should include commercial and public recreation facilities which allow safe, supervised access to and along the Delta waterways (pedestrian and bike trails, launch ramps including small boat launch ramps, overlooks, nature observation areas, interpretive information, picnic areas, etc.)

Recommendation 3: State and federal projects in the Primary and Secondary Zones should include appropriate recreation and/or public access components to the extent consistent with project purposes and with available funding. State and federal agencies should consider private or user group improvements on publicly-owned lands to provide facilities.

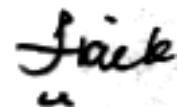
Levees: "

Recommendation 1: Levee maintenance, rehabilitation, and upgrading should be established as the first and highest priority of use of the levee. No other use whether for habitat, trails, recreational facilities, or roads should be allowed to unreasonably adversely impact levee integrity or maintenance.

Thank you for the opportunity to provide input into this process. Please contact me at (916) 776-2292 or lindadqc@citlink.net if you have any questions about the Commission or the comments provided herein.

Sincerely,

t~



Linda Fiack, Executive Director

cc

Chair, Contra Costa County Board of Supervisors Tom Hall, Dept. of Water Resources



Department of Toxic Substances Control

Maureen F. Gorsen, Director
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721



Arnold Schwarzenegger
Governor


Dan Skopec
Acting Secretary
Cal/EPA

April 26, 2006

Mr. Tom Hall
Department of Water Resources
P.O. Box 942836
Sacramento, California 94236-0001

Dear Mr. Hall:

The Department of Toxic Substances Control (DTSC) has reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) dated April 3, 2006 for the Dutch Slough Restoration Project (SCH #2006042009). As you may be aware, DTSC oversees the cleanup of hazardous substance release sites pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a potential Responsible Agency, DTSC is submitting comments to ensure that the California Environmental Quality Act (CEQA) documentation prepared for this project adequately addresses any remediation of hazardous substance releases that might be required as part of the project.

The NOP states in the Hazards and Hazardous Materials section on page 13 that the Iron House parcel may be contaminated with materials related to its historical use as a land-based sewage treatment system. The NOP indicates that the Draft EIR will review and summarize existing Iron House Sanitary District data pertaining to soil contamination at the site. The NOP also states that no additional studies on hazardous materials are proposed. The existing data may not provide a complete characterization of soil contamination that is present on the Iron House parcel. The potential presence of groundwater contamination also needs to be considered. If, upon review of the existing data, further site characterization is determined by the Department of Water Resources to be necessary, DTSC recommends that soil and groundwater on the site be sampled and analyzed for contaminants of potential concern prior to the completion of the Draft EIR. The results of all site investigations should be summarized in the Draft EIR.

The NOP states that the Draft EIR will identify potential impacts to project workers and recreation users due to soil contamination. Any screening levels used in determining whether detected contaminants pose a potential, significant human health or environmental risk should be identified in the Draft EIR. Project planners are referred to the California Human Health Screening Levels (CHHSLs) and the US-EPA Preliminary Remediation Goals (PRGs) as potentially-applicable human health risk-based screening

Mr. Tom Hall
April 26, 2006
Page 2

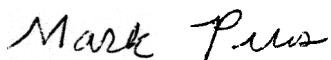
levels. Resources for conducting risk assessments may be obtained at the DTSC website (www.dtsc.ca.gov) or from the US-EPA (www.epa.gov).

If remediation activities are to be implemented as part of the project, these activities should be discussed in the Draft EIR along with the cleanup levels that will be applied and the anticipated regulatory agency oversight. Potential impacts associated with the remediation activities should also be addressed by the Draft EIR. If the remediation activities include soil excavation, the Draft EIR should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust and noise levels; (3) transportation impacts from the removal or remedial activities; and (4) risk of upset should there be an accident during cleanup.

DTSC can assist your agency in overseeing characterization and cleanup activities through our Voluntary Cleanup Program. A fact sheet describing this program is enclosed. We are aware that projects such as this one are typically on a compressed schedule, and in an effort to use the available review time efficiently, we request that DTSC be included in any meetings where issues relevant to our statutory authority are discussed.

Please contact Eileen Belding at (510) 540-3844 if you have any questions. Thank you in advance for your consideration of our comments.

Sincerely,



Mark Piros, P.E., Unit Chief
Northern California - Coastal Cleanup Operations Branch

Enclosure

cc: without enclosure

Governor's Office of Planning and Research
State Clearinghouse
P. O. Box 3044
Sacramento, California 95812-3044

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

*No enclosure rec'd; 5/1/06; 0805 hrs. Spoke w/ Ms. Belding to request fact sheet.



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April 20, 2006

VIA U.S. MAIL

Tom Hall
Department of Water Resources
Delta Suisun Marsh Office
P.O. Box 94236-0001

Re: Notice of Preparation of Draft Environmental Impact Report for Dutch Slough Restoration Project

Dear Mr. Hall:

We are the legal counsel for Reclamation District 799 ("RD 799") and have been authorized and directed by the Board of Trustees of RD 799 to submit these comments on the Notice of Preparation referenced above ("NOP"). These comments have been reviewed and approved by RD 799's Engineer, Barbara Burns, Burns Engineering and its Consulting Engineer, Chris Neudeck, Kjeldsen, Sinnock, & Neudeck. We appreciate the opportunity to comment on the NOP. RD 799 conceptually supports the Project, subject to the Draft Environmental Impact Report ("DEIR") adequately responding to the following comments:

1. RD 799 is the agency responsible for flood protection and drainage on Hotchkiss Tract. Those portions of the project located within the boundaries of RD 799 that potentially have an affect on drainage, flood protection or levee integrity will require permit approval from RD 799. This includes the portion of the project on the Burroughs's Ranch property and the proposed levee along Jersey Island Road, ("JI levee"). RD 799 must be identified in the Mitigation Measures and identified as a responsible agency, whose permit process must be listed under "required agency approvals and actions."
2. Grading deeper into pervious soil strata on the Burroughs's Ranch may cause seepage or impact the ground water table east of the JI levee, which could impact future house foundations, lake under-drainage and lining systems, and interior levees.
3. If the JI levee is constructed before the wetlands restoration is completed, in the event of a failure of the perimeter Burroughs' levee, the wet side of the JI levee

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would be subject to greater wind fetch and wave run-up than would occur if the JI levee were constructed after the wetlands project is completed.

4. There is a potential for seepage impacting the stability of RD 799's levee along the Burroughs's Ranch and drainage of the Burroughs's Ranch property if the project is phased in such a way that the Gilbert Ranch is flooded and not the Burroughs's Ranch.
5. The construction of JI levee may impact the existing RD 799 levee at Dutch Slough, including, but not limited to, foundation densification.
6. RD 799 will require that the design criteria for JI levee include seepage control and flood protection from a 200 year flood event.
7. There is a potential impact should a leak occur from the gas collection line now located along the west side of Jersey Island Road on the new JI levee.
8. The proposed JI levee will reduce the flood plain within Hotchkiss Tract if the existing perimeter levee should fail. This reduction in the flood plain would cause the remaining area within the Tract to fill with flood waters faster, reducing the evacuation time of existing residents.
9. The proposed JI levee will be built to the 200 year flood protection standards. Therefore, 2.3 miles of the existing perimeter levee of the Burroughs' Ranch, which currently does not meet the 100 year flood protection level will be replaced with 200 year flood protection provided by the proposed JI levee.
10. Drainage of areas that currently drain to Pump Station 1A (including offsite water from 45 acres northwest of the canal) and Pump Station 1 (including the area east of Jersey Island Road near Dutch Slough) will be changed.
11. Public use of JI levee as a trail introduces maintenance problems. These problems include surfacing maintenance; the potential erosion of slopes due to foot, bicycle, and/or equestrian traffic; and litter control including trash and manure removal.
12. Landscaping of JI must be approved by RD 799 and be compatible with levee maintenance access and inspection visibility requirements.
13. The section of existing perimeter levee on the Burroughs's Ranch along Dutch Slough from the intersection of the JI levee to the Jersey Island Bridge (Station

Tom Hall
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455 to 470) is substandard. RD 799 will require this section to be improved, which will include raising and widening the levee crown to 20' wide at elevation 10.2; flattening the landside slope to 4:1; a 15' wide patrol road at the toe; a toe ditch; and a 20' wide ditch access strip. This area may be presently wetlands, in which case alterations and/or fill will need to be mitigated.

Public Services:

14. The Project may economically impact RD 799 due to the additional maintenance responsibility for the JI levee, and the reduced maintenance responsibility of the Burroughs' levee.
15. The Project may economically impact RD 799 due to the loss of assessment of a large portion of the Burroughs's Ranch Property, (except for the remaining triangle at the northeast corner).

For additional information, please call Barbara Burns, Burns Engineering at (925) 684-3470.

Very Truly Yours,


JOHN W. STOVALL
Attorney at Law

JWS/RAA: msb

cc: Barbara Burns